



Takoma Park City Council Meeting – April 15, 2020 Agenda Item 4

Voting Session

Resolution regarding the suspension of quasi-judicial proceedings and staying the underlying matters pending or to be pending before the City's Boards, Commissions and Committees, for the duration of Maryland's state of emergency caused by the outbreak of COVID-19.

Recommended Council Action

Adopt the Resolution authorizing the suspension of the City's Boards, Commissions, and Committees.

Context with Key Issues

Maryland's Courts are effectively closed for all matters that are not emergent and will be through May 1, 2020 (if not longer). Most likely, the Courts' schedules will be disrupted for the next several years as certain types of matters take precedence over others. For example, criminal matters take precedence over civil matters (which include quasi-judicial administrative proceedings). Thus, when the Courts reopen, it is likely that the Courts will prioritize clearing the backlog of criminal matters and all civil matters will be delayed significantly.

Some of the City's Boards, Commissions and Committees conduct quasi-judicial proceedings. Those proceedings are subject to review in Maryland's Courts and resemble formal judicial proceedings in some respects, including introduction of evidence and testimony, and adhere to certain procedural practices in order to ensure due process is provided. To the extent appropriate process is not followed, the potential for appeal and reversal upon judicial review is significant. While acting remotely, the City Attorney's ability to fully and completely advise the Boards, Commissions, or Committees, prior to and during the pendency of a remote proceeding will be limited. The likely outcome is that appropriate process will not be followed despite the best efforts of the volunteer members, which will eventually result in the Courts sending the matter back to the City for a rehearing or an outright reversal.

Out of an abundance of caution, an exception to the suspension of quasi-judicial proceedings should be made to permit emergency proceedings to go forward. The determination of whether a proceeding represents an emergency matter should be made by the City Manager under the authority granted to her by the City's Emergency Covid-19 ordinance.

This is a time sensitive matter as an appeal with one of the City's Boards, Commissions, and Committees has been filed.

Council Priority

Engaged, Responsive and Service-Oriented Government

Environmental Considerations

None.

Fiscal Considerations

None.

Racial Equity Considerations

None.

Attachments and Links

Draft Resolution

1 Introduced by: _____
2

3 **CITY OF TAKOMA PARK, MARYLAND**

4
5 **RESOLUTION 2020-__**
6

7 **SUSPENDING QUASI-JUDICIAL PROCEEDINGS BY THE CITY’S BOARDS,**
8 **COMMISSIONS, AND COMMITTEES, AND STAYING ALL UNDERLYING**
9 **MATTERS UNTIL THIRTY DAYS AFTER THE EXPIRATION OF THE STATE OF**
10 **EMERGENCY DECLARED BY GOVERNOR LAWRENCE J. HOGAN, JR., DUE TO**
11 **THE COVID-19 PANDEMIC.**
12

13 WHEREAS, On March 5, 2020, Governor Lawrence J. Hogan, Jr. of Maryland proclaimed a
14 state of emergency and a catastrophic health emergency due to the outbreak of
15 disease, hereinafter referred to as “COVID-19,” caused by the novel coronavirus;
16 and
17

18 WHEREAS, On March 11, 2020, the City Council adopted an uncodified emergency Ordinance
19 authorizing the City Manager to act in response to the emergency created by the
20 novel coronavirus by taking all appropriate and reasonable measures to assure the
21 efficient operation of the City’s government and to protect the public’s health,
22 safety, and welfare; and
23

24 WHEREAS, On March 17, 2020, the Chief Judge of the Court of Appeals of Maryland issued
25 an Administrative Order restricting all courts in the Maryland Judiciary, court
26 offices, administrative offices, units of the Judiciary, and the Offices of the Clerks
27 of the Circuit Courts and the clerks’ offices of the District Court, to emergency
28 operations and closed with limited exceptions; and
29

30 WHEREAS, On March 30, 2020, Governor Hogan issued Executive Order, No. 20-03-30-01,
31 directing all persons living in the State of Maryland to stay in their homes or places
32 of residence with certain exceptions for essential businesses and essential activities;
33 and
34

35 WHEREAS, On April 8, 2020, the Chief Judge of the Court of Appeals of Maryland continued
36 restrictions and closures of Maryland’s Courts through May 1, 2020; and

37 WHEREAS, Some of the City’s Boards, Commissions, and Committees, conduct quasi-judicial
38 proceedings, which are subject to judicial review by Maryland’s Courts; and
39

40 WHEREAS, Social distancing protocols activated in response to Covid -19 will adversely impact
41 the ability of the City’s Boards, Commissions, and Committees, to conduct quasi-
42 judicial proceedings.
43

1 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF**
2 **TAKOMA PARK THAT** the the operations of the City’s Boards, Commissions and Committees
3 are hereby suspended due to the novel coronavirus as follows:
4

5 **Section 1.** All quasi-judicial proceedings before the City’s Boards, Commissions, and
6 Committees, are hereby suspended and the underlying matters stayed until thirty
7 (30) days after Maryland’s Covid – 19 state of emergency has been terminated. The
8 City Manager shall take all reasonable and appropriate steps necessary to
9 implement this Resolution.

10
11 **Section 2.** During the effective period of this Resolution a City Board, Commission, or
12 Committee, may proceed with a quasi-judicial proceeding only if it is determined
13 by the City Manager to be an emergency relating to the public’s health, safety, or
14 welfare.
15

16 **Section 3.** The City Manager is directed to ensure any and all necessary communications are
17 made with any party to a matter pending before any City Board, Commission, or
18 Committee, and with the Governor’s Office and any other State Agency regarding
19 this Resolution.
20

21 **Section 4.** The Mayor and Council may rescind, modify, or extend this Resolution by a
22 majority vote of those present.
23

24 **THIS RESOLUTION, WHICH IS EFFECTIVE IMMEDIATELY, IS ADOPTED BY THE**
25 **COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THIS _____ DAY OF**
26 **APRIL, 2020, BY ROLL-CALL VOTE AS FOLLOWS:**
27

28 AYE:
29 NAY:
30 ABSTAIN:
31 ABSENT: